

By: Madden, Pena, McClendon, Castro, Woolley,
et al.

H.B. No. 2807

Substitute the following for H.B. No. 2807:

By: Madden

C.S.H.B. No. 2807

A BILL TO BE ENTITLED

AN ACT

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relating to the Texas Youth Commission and the prosecution of
certain offenses and delinquent conduct in the Texas Youth
Commission and certain other criminal justice agencies; providing
penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 2.12, Code of Criminal Procedure, is
amended to read as follows:

Art. 2.12. WHO ARE PEACE OFFICERS. The following are peace
officers:

(1) sheriffs, their deputies, and those reserve
deputies who hold a permanent peace officer license issued under
Chapter 1701, Occupations Code;

(2) constables, deputy constables, and those reserve
deputy constables who hold a permanent peace officer license issued
under Chapter 1701, Occupations Code;

(3) marshals or police officers of an incorporated
city, town, or village, and those reserve municipal police officers
who hold a permanent peace officer license issued under Chapter
1701, Occupations Code;

(4) rangers and officers commissioned by the Public
Safety Commission and the Director of the Department of Public
Safety;

(5) investigators of the district attorneys', criminal

1 district attorneys', and county attorneys' offices;

2 (6) law enforcement agents of the Texas Alcoholic
3 Beverage Commission;

4 (7) each member of an arson investigating unit
5 commissioned by a city, a county, or the state;

6 (8) officers commissioned under Section 37.081,
7 Education Code, or Subchapter E, Chapter 51, Education Code;

8 (9) officers commissioned by the General Services
9 Commission;

10 (10) law enforcement officers commissioned by the
11 Parks and Wildlife Commission;

12 (11) airport police officers commissioned by a city
13 with a population of more than 1.18 million that operates an airport
14 that serves commercial air carriers;

15 (12) airport security personnel commissioned as peace
16 officers by the governing body of any political subdivision of this
17 state, other than a city described by Subdivision (11), that
18 operates an airport that serves commercial air carriers;

19 (13) municipal park and recreational patrolmen and
20 security officers;

21 (14) security officers and investigators commissioned
22 as peace officers by the comptroller;

23 (15) officers commissioned by a water control and
24 improvement district under Section 49.216, Water Code;

25 (16) officers commissioned by a board of trustees
26 under Chapter 54, Transportation Code;

27 (17) investigators commissioned by the Texas Medical

1 ~~[State] Board [of Medical Examiners];~~

2 (18) officers commissioned by the board of managers of
3 the Dallas County Hospital District, the Tarrant County Hospital
4 District, or the Bexar County Hospital District under Section
5 281.057, Health and Safety Code;

6 (19) county park rangers commissioned under
7 Subchapter E, Chapter 351, Local Government Code;

8 (20) investigators employed by the Texas Racing
9 Commission;

10 (21) officers commissioned under Chapter 554,
11 Occupations Code;

12 (22) officers commissioned by the governing body of a
13 metropolitan rapid transit authority under Section 451.108,
14 Transportation Code, or by a regional transportation authority
15 under Section 452.110, Transportation Code;

16 (23) investigators commissioned by the attorney
17 general under Section 402.009, Government Code;

18 (24) security officers and investigators commissioned
19 as peace officers under Chapter 466, Government Code;

20 (25) an officer employed by the ~~[Texas]~~ Department of
21 State Health Services under Section 431.2471, Health and Safety
22 Code;

23 (26) officers appointed by an appellate court under
24 Subchapter F, Chapter 53, Government Code;

25 (27) officers commissioned by the state fire marshal
26 under Chapter 417, Government Code;

27 (28) an investigator commissioned by the commissioner

1 of insurance under Section 701.104 [~~Article 1.10D~~], Insurance Code;

2 (29) apprehension specialists and inspectors general
3 commissioned by the Texas Youth Commission as officers under
4 Sections 61.0451 and [~~Section~~] 61.0931, Human Resources Code;

5 (30) officers appointed by the executive director of
6 the Texas Department of Criminal Justice under Section 493.019,
7 Government Code;

8 (31) investigators commissioned by the Commission on
9 Law Enforcement Officer Standards and Education under Section
10 1701.160, Occupations Code;

11 (32) commission investigators commissioned by the
12 Texas [~~Commission on~~] Private Security Board under Section
13 1702.061(f), Occupations Code;

14 (33) the fire marshal and any officers, inspectors, or
15 investigators commissioned by an emergency services district under
16 Chapter 775, Health and Safety Code; and

17 (34) officers commissioned by the State Board of
18 Dental Examiners under Section 254.013, Occupations Code, subject
19 to the limitations imposed by that section.

20 SECTION 2. Article 104.003(a), Code of Criminal Procedure,
21 is amended to read as follows:

22 (a) In a prosecution of a criminal offense or delinquent
23 conduct [~~felony~~] committed on property owned or operated by or
24 under contract with [~~while the actor was a prisoner in the custody~~
25 ~~of~~] the Texas Department of Criminal Justice or the Texas Youth
26 Commission, or committed by or against a person in the custody of
27 the department or commission while the person is performing a duty

1 away from department or commission property [~~Corrections or a~~
2 ~~prosecution of an offense committed in the department by any person~~
3 ~~under Chapter 21, Acts of 55th Legislature, Regular Session, 1957~~
4 ~~(Article 6184m, Vernon's Texas Civil Statutes), or Chapter 481,~~
5 ~~Health and Safety Code, or Sections 485.031 through 485.035, Health~~
6 ~~and Safety Code], the state shall reimburse the county for expenses
7 incurred by the county, in an amount that the court determines to be
8 reasonable, for payment of:~~

9 (1) salaries and expenses of foreign language
10 interpreters and interpreters for deaf persons whose services are
11 necessary to the prosecution;

12 (2) consultation fees of experts whose assistance is
13 directly related to the prosecution;

14 (3) travel expenses for witnesses;

15 (4) expenses for the food, lodging, and compensation
16 of jurors;

17 (5) compensation of witnesses;

18 (6) the cost of preparation of a statement of facts and
19 a transcript of the trial for purposes of appeal;

20 (7) if the death of a person is an element of the
21 offense, expenses of an inquest relating to the death;

22 (8) food, lodging, and travel expenses incurred by the
23 prosecutor's staff during travel essential to the prosecution of
24 the offense;

25 (9) court reporter's fees; and

26 (10) the cost of special security officers.

27 SECTION 3. Sections 54.04(d) and (u), Family Code, are

1 amended to read as follows:

2 (d) If the court or jury makes the finding specified in
3 Subsection (c) allowing the court to make a disposition in the case:

4 (1) the court or jury may, in addition to any order
5 required or authorized under Section 54.041 or 54.042, place the
6 child on probation on such reasonable and lawful terms as the court
7 may determine:

8 (A) in the child's own home or in the custody of a
9 relative or other fit person; or

10 (B) subject to the finding under Subsection (c)
11 on the placement of the child outside the child's home, in:

12 (i) a suitable foster home; or

13 (ii) a suitable public or private
14 institution or agency, except the Texas Youth Commission;

15 (2) if the court or jury found at the conclusion of the
16 adjudication hearing that the child engaged in delinquent conduct
17 that violates a penal law of this state or the United States of the
18 grade of felony [~~or, if the requirements of Subsection (s) or (t)~~
19 ~~are met, of the grade of misdemeanor,~~] and if the petition was not
20 approved by the grand jury under Section 53.045, the court may
21 commit the child to the Texas Youth Commission without a
22 determinate sentence;

23 (3) if the court or jury found at the conclusion of the
24 adjudication hearing that the child engaged in delinquent conduct
25 that included a violation of a penal law listed in Section 53.045(a)
26 and if the petition was approved by the grand jury under Section
27 53.045, the court or jury may sentence the child to commitment in

1 the Texas Youth Commission with a possible transfer to the
2 [~~institutional division or the pardons and paroles division of the~~]
3 Texas Department of Criminal Justice for a term of:

4 (A) not more than 40 years if the conduct
5 constitutes:

6 (i) a capital felony;

7 (ii) a felony of the first degree; or

8 (iii) an aggravated controlled substance
9 felony;

10 (B) not more than 20 years if the conduct
11 constitutes a felony of the second degree; or

12 (C) not more than 10 years if the conduct
13 constitutes a felony of the third degree;

14 (4) the court may assign the child an appropriate
15 sanction level and sanctions as provided by the assignment
16 guidelines in Section 59.003; or

17 (5) if applicable, the court or jury may make a
18 disposition under Subsection (m).

19 (u) For the purposes of disposition under Subsection
20 (d)(2), delinquent conduct that violates a penal law of this state
21 of the grade of felony [~~or misdemeanor~~] does not include conduct
22 that violates a lawful order of a county, municipal, justice, or
23 juvenile court under circumstances that would constitute contempt
24 of that court.

25 SECTION 4. Section 54.05(f), Family Code, is amended to
26 read as follows:

27 (f) Except as provided by Subsection (j), a disposition

1 based on a finding that the child engaged in delinquent conduct that
2 violates a penal law of this state or the United States of the grade
3 of felony [~~or, if the requirements of Subsection (k) are met, of the~~
4 ~~grade of misdemeanor,~~] may be modified so as to commit the child to
5 the Texas Youth Commission if the court after a hearing to modify
6 disposition finds by a preponderance of the evidence that the child
7 violated a reasonable and lawful order of the court. A disposition
8 based on a finding that the child engaged in habitual felony conduct
9 as described by Section 51.031 or in delinquent conduct that
10 included a violation of a penal law listed in Section 53.045(a) may
11 be modified to commit the child to the Texas Youth Commission with a
12 possible transfer to the [~~institutional division or the pardons and~~
13 ~~parole division of the~~] Texas Department of Criminal Justice for a
14 definite term prescribed by Section 54.04(d)(3) if the original
15 petition was approved by the grand jury under Section 53.045 and if
16 after a hearing to modify the disposition the court finds that the
17 child violated a reasonable and lawful order of the court.

18 SECTION 5. Chapter 54, Family Code, is amended by adding
19 Section 54.052 to read as follows:

20 Sec. 54.052. CREDIT FOR TIME SPENT IN DETENTION FACILITY
21 FOR CHILD WITH DETERMINATE SENTENCE. (a) This section applies only
22 to a child who is committed to the Texas Youth Commission under a
23 determinate sentence under Section 54.04(d)(3) or (m) or Section
24 54.05(f).

25 (b) The judge of the court in which a child is adjudicated
26 shall give the child credit on the child's sentence for the time
27 spent by the child, in connection with the conduct for which the

1 child was adjudicated, in a secure detention facility before the
2 child's transfer to a Texas Youth Commission facility.

3 (c) If a child appeals the child's adjudication and is
4 retained in a secure detention facility pending the appeal, the
5 judge of the court in which the child was adjudicated shall give the
6 child credit on the child's sentence for the time spent by the child
7 in a secure detention facility pending disposition of the child's
8 appeal. The court shall endorse on both the commitment and the
9 mandate from the appellate court all credit given the child under
10 this subsection.

11 (d) The Texas Youth Commission shall grant any credit under
12 this section in computing the child's eligibility for parole and
13 discharge.

14 SECTION 6. Section 58.106(a), Family Code, is amended to
15 read as follows:

16 (a) Except as otherwise provided by this section,
17 information contained in the juvenile justice information system is
18 confidential information for the use of the department and may not
19 be disseminated by the department except:

20 (1) with the permission of the juvenile offender, to
21 military personnel of this state or the United States;

22 (2) to a person or entity to which the department may
23 grant access to adult criminal history records as provided by
24 Section 411.083, Government Code;

25 (3) to a juvenile justice agency; ~~and~~

26 (4) to ~~[the Criminal Justice Policy Council]~~ the
27 Texas Youth Commission~~[7]~~ and the Texas Juvenile Probation

1 Commission for analytical purposes; and

2 (5) to the office of independent ombudsman of the
3 Texas Youth Commission.

4 SECTION 7. Section 41.102, Government Code, is amended by
5 adding Subsection (c) to read as follows:

6 (c) The attorney general may offer to assist a prosecuting
7 attorney in the prosecution of criminal offenses concerning the
8 Texas Youth Commission.

9 SECTION 8. Chapter 41, Government Code, is amended by
10 adding Subchapter E to read as follows:

11 SUBCHAPTER E. SPECIAL PROSECUTION UNIT

12 Sec. 41.301. DEFINITIONS. In this subchapter:

13 (1) "Board of directors" means the board of directors
14 of the unit.

15 (2) "Commission" means the Texas Youth Commission.

16 (3) "Department" means the Texas Department of
17 Criminal Justice.

18 (4) "Executive board" means the executive board
19 governing the board of directors of the unit.

20 (5) "Prosecuting attorney" means a district attorney,
21 a criminal district attorney, or a county attorney representing the
22 state in criminal matters before the district or inferior courts of
23 the county.

24 (6) "Unit" means the special prosecution unit.

25 Sec. 41.302. GENERAL FUNCTION OF SPECIAL PROSECUTION UNIT.

26 The special prosecution unit is an independent unit that cooperates
27 with and supports prosecuting attorneys in prosecuting offenses and

1 delinquent conduct described by Article 104.003(a), Code of
2 Criminal Procedure.

3 Sec. 41.303. BOARD OF DIRECTORS. (a) The unit is governed
4 by a board of directors composed of each prosecuting attorney who
5 represents the state in criminal matters before a court in a county
6 in which one or more facilities owned or operated by or under
7 contract with the department or the commission are located.

8 (b) A prosecuting attorney described by Subsection (a)
9 shall serve on the board of directors in addition to the other
10 duties of the prosecuting attorney assigned by law.

11 Sec. 41.304. EXECUTIVE BOARD. (a) The board of directors
12 is governed by an executive board composed of 11 members elected by
13 the membership of the board of directors on a majority vote from
14 among that membership, as follows:

15 (1) one member of the executive board who represents
16 the state in criminal matters before a court in a county in which
17 one or more facilities owned or operated by or under contract with
18 the commission are located shall be elected on a majority vote of
19 the members of the board of directors to serve a term expiring in an
20 even-numbered year;

21 (2) an additional four members of the executive board
22 shall be elected on a majority vote of the members of the board of
23 directors to serve terms expiring in even-numbered years;

24 (3) one member of the executive board who represents
25 the state in criminal matters before a court in a county in which
26 one or more facilities owned or operated by or under contract with
27 the commission are located shall be elected on a majority vote of

1 the members of the board of directors to serve a term expiring in an
2 odd-numbered year; and

3 (4) an additional five members of the executive board
4 shall be elected on a majority vote of the members of the board of
5 directors to serve terms expiring in odd-numbered years.

6 (b) If a vacancy on the executive board occurs, the board of
7 directors shall elect a person to serve the remainder of the
8 vacating member's term in the manner provided by Subsection (a). To
9 be eligible for election under this subsection, a person must meet
10 any qualifications required of the vacating member for service on
11 the executive board.

12 Sec. 41.305. OFFICERS. (a) The members of the board of
13 directors, on a majority vote, shall elect from among the
14 membership of the executive board a presiding officer and an
15 assistant presiding officer. The presiding officer serves as the
16 presiding officer of the board of directors and the executive
17 board, and the assistant presiding officer serves as the assistant
18 presiding officer of the board of directors and the executive
19 board.

20 (b) The presiding officer and the assistant presiding
21 officer serve terms of one year.

22 (c) The assistant presiding officer serves as presiding
23 officer of the board of directors and the executive board in the
24 presiding officer's absence or if a vacancy occurs in that office
25 until a new presiding officer is elected as provided by Subsection
26 (d).

27 (d) If a vacancy occurs in the office of presiding officer

1 or assistant presiding officer, the board of directors shall elect
2 a person to serve the remainder of the vacating officer's term in
3 the manner provided by Subsection (a).

4 Sec. 41.306. MEMBERSHIP ON BOARD OF DIRECTORS OR EXECUTIVE
5 BOARD NOT A CIVIL OFFICE OF EMOLUMENT. A position on the board of
6 directors or the executive board may not be construed to be a civil
7 office of emolument for any purpose, including those purposes
8 described in Section 40, Article XVI, Texas Constitution.

9 Sec. 41.307. REIMBURSEMENT FOR EXPENSES. A member of the
10 board of directors or executive board is not entitled to
11 compensation for service on the board of directors or executive
12 board, if applicable, but is entitled to be reimbursed for
13 necessary expenses incurred in carrying out the duties and
14 responsibilities of a member of the board of directors and the
15 executive board, if applicable, as provided by the General
16 Appropriations Act.

17 Sec. 41.308. CHIEF OF SPECIAL PROSECUTION UNIT; ADDITIONAL
18 EMPLOYEES. The board of directors, on a majority vote, shall employ
19 a person to serve as chief of the unit and additional persons to
20 accomplish the unit's purposes. The board of directors may
21 determine the compensation of the unit's employees.

22 Sec. 41.309. ELECTION OF COUNSELLOR. (a) The executive
23 board, on a majority vote, shall elect a counsellor.

24 (b) To be eligible to serve as a counsellor, a person must:

25 (1) be certified in criminal law by the Texas Board of
26 Legal Specialization;

27 (2) have at least five years of experience as a lawyer

1 assisting prosecuting attorneys in prosecuting offenses or
2 delinquent conduct committed on state property used for the custody
3 of persons charged with or convicted of offenses or used for the
4 custody of children charged with or adjudicated as having engaged
5 in delinquent conduct or conduct indicating a need for supervision;
6 or

7 (3) have served for at least five years as a
8 prosecuting attorney or as a judge of a district court, a court of
9 appeals, or the court of criminal appeals.

10 Sec. 41.310. DUTIES OF COUNSELLOR. (a) The counsellor
11 elected in accordance with Section 41.309:

12 (1) shall coordinate prosecution issues in and monitor
13 each case involving an offense or delinquent conduct described by
14 Article 104.003(a), Code of Criminal Procedure, that concerns the
15 commission;

16 (2) shall work with criminal justice analysts employed
17 by the Legislative Budget Board and other persons who monitor cases
18 involving offenses or delinquent conduct described by Article
19 104.003(a), Code of Criminal Procedure; and

20 (3) may conduct an investigation of any alleged
21 illegal or improper conduct by commission officers, employees, or
22 contractors that the counsellor reasonably believes:

23 (A) jeopardizes the health, safety, and welfare
24 of children in the custody of the commission; and

25 (B) could constitute an offense described by
26 Article 104.003(a), Code of Criminal Procedure.

27 (b) In addition to the duties prescribed by Subsection (a),

1 the counsellor shall on a quarterly basis provide the board and the
2 standing committees of the senate and house of representatives with
3 primary jurisdiction over matters concerning correctional
4 facilities with a report concerning offenses or delinquent conduct
5 prosecuted by the unit on receiving a request for assistance under
6 Section 61.098, Human Resources Code, or a request for assistance
7 otherwise from a prosecuting attorney. A report under this
8 subsection is public information under Chapter 552, Government
9 Code, and the board shall request that the commission publish the
10 report on the commission's Internet website. A report must be both
11 aggregated and disaggregated by individual facility and include
12 information relating to:

13 (1) the number of requests for assistance received
14 under Section 61.098, Human Resources Code, and requests for
15 assistance otherwise received from prosecuting attorneys;

16 (2) the number of cases investigated and the number of
17 cases prosecuted;

18 (3) the types and outcomes of cases prosecuted, such
19 as whether the case concerned narcotics or an alleged incident of
20 sexual abuse; and

21 (4) the relationship of a victim to a perpetrator, if
22 applicable.

23 (c) The counsellor, in consultation with the board, shall
24 notify the foreman of the appropriate grand jury, in the manner
25 provided by Article 20.09, Code of Criminal Procedure, if:

26 (1) the counsellor receives credible evidence of
27 illegal or improper conduct by commission officers, employees, or

1 contractors that the counsellor reasonably believes jeopardizes
2 the health, safety, and welfare of children in the custody of the
3 commission;

4 (2) the counsellor reasonably believes the conduct:

5 (A) could constitute an offense described by
6 Article 104.003(a), Code of Criminal Procedure; and

7 (B) involves the alleged physical or sexual abuse
8 of a child in the custody of a commission facility or an
9 investigation related to the alleged abuse; and

10 (3) the counsellor has reason to believe that
11 information concerning the conduct has not previously been
12 presented to the appropriate grand jury.

13 SECTION 9. Chapter 325, Government Code, is amended by
14 adding Section 325.0121 to read as follows:

15 Sec. 325.0121. STUDY ON TRANSITION TOWARD REGIONALIZED
16 JUVENILE CORRECTIONS. (a) The commission shall appoint an
17 advisory committee as provided by this section to develop a
18 practicable plan to move the Texas Youth Commission toward a
19 regionalized structure of smaller facilities and more diversified
20 treatment and placement options, taking into consideration the
21 likely effects of this regionalized structure on:

22 (1) recidivism;

23 (2) juvenile and family access to services; and

24 (3) costs to this state and the counties of this state.

25 (b) The commission shall take into consideration the
26 findings and recommendations of the advisory committee in its
27 report to the legislature under Section 325.012 as part of its

1 review of the Texas Youth Commission, which, as provided by Section
2 61.020, Human Resources Code, is abolished September 1, 2009,
3 unless continued in existence as provided by this chapter.

4 (c) The commission shall appoint an advisory committee not
5 later than December 1, 2007.

6 (d) The advisory committee consists of nine members
7 appointed by the commission in consultation with the Texas Youth
8 Commission, Texas Juvenile Probation Commission, governor,
9 lieutenant governor, and speaker of the house of representatives.
10 At least three of the members must be nationally recognized experts
11 in the field of juvenile justice. At least one of the members must
12 be a recognized advocate for children.

13 (e) The chairman of the commission shall designate a
14 presiding officer from among the members appointed to the advisory
15 committee.

16 (f) The advisory committee shall convene at the call of the
17 presiding officer.

18 (g) A member of the advisory committee may not receive
19 compensation from the state for committee service but may receive
20 reimbursement for travel to official meetings according to policies
21 established by the commission.

22 (h) Not later than December 1, 2008, the advisory committee
23 shall report the committee's findings and recommendations to the
24 commission.

25 (i) This section expires September 1, 2009.

26 SECTION 10. Chapter 493, Government Code, is amended by
27 adding Section 493.026 to read as follows:

1 Sec. 493.026. INSPECTOR GENERAL REPORT ON CRIMINAL
2 OFFENSES. (a) In this section, "special prosecution unit" means
3 the special prosecution unit established under Subchapter E,
4 Chapter 41.

5 (b) The inspector general of the department shall on a
6 quarterly basis prepare and deliver to the board of directors of the
7 special prosecution unit a report concerning any alleged criminal
8 offense concerning the department and described by Article
9 104.003(a), Code of Criminal Procedure, that occurred during the
10 preceding calendar quarter.

11 SECTION 11. Section 508.156(a), Government Code, is amended
12 to read as follows:

13 (a) Before the release of a person who is transferred under
14 Section 61.081(f) or 61.084(g) [~~61.084(f) or (g)~~], Human Resources
15 Code, to the division for release on parole, a parole panel shall
16 review the person's records and may interview the person or any
17 other person the panel considers necessary to determine the
18 conditions of parole. The panel may impose any reasonable condition
19 of parole on the person that the panel may impose on an adult inmate
20 under this chapter.

21 SECTION 12. Section 811.001(9), Government Code, is amended
22 to read as follows:

23 (9) "Law enforcement officer" means a member of the
24 retirement system who:

25 (A) has been commissioned as a law enforcement
26 officer by the Department of Public Safety, the Texas Alcoholic
27 Beverage Commission, ~~or~~ the Parks and Wildlife Department, or the

1 office of inspector general at the Texas Youth Commission; and

2 (B) is recognized as a commissioned law
3 enforcement officer by the Commission on Law Enforcement Officer
4 Standards and Education.

5 SECTION 13. Section 814.104(b), Government Code, is amended
6 to read as follows:

7 (b) A member who is at least 55 years old and who has at
8 least 10 years of service credit as a commissioned peace officer
9 engaged in criminal law enforcement activities of the Department of
10 Public Safety, the Texas Alcoholic Beverage Commission, ~~[or]~~ the
11 Parks and Wildlife Department, or the office of inspector general
12 at the Texas Youth Commission, or as a custodial officer, is
13 eligible to retire and receive a service retirement annuity.

14 SECTION 14. Section 815.505, Government Code, is amended to
15 read as follows:

16 Sec. 815.505. CERTIFICATION OF NAMES OF LAW ENFORCEMENT AND
17 CUSTODIAL OFFICERS. Not later than the 12th day of the month
18 following the month in which a person begins or ceases employment as
19 a law enforcement officer or custodial officer, the Public Safety
20 Commission, the Texas Alcoholic Beverage Commission, the Parks and
21 Wildlife Commission, the office of inspector general at the Texas
22 Youth Commission, the Board of Pardons and Paroles, or the Texas
23 Board of Criminal Justice, as applicable, shall certify to the
24 retirement system, in the manner prescribed by the system, the name
25 of the employee and such other information as the system determines
26 is necessary for the crediting of service and financing of benefits
27 under this subtitle.

1 SECTION 15. Section 61.001, Human Resources Code, is
2 amended by adding Subdivision (7) to read as follows:

3 (7) "Office of inspector general" means the office of
4 inspector general established under Section 61.0451.

5 SECTION 16. Section 61.012(b), Human Resources Code, is
6 amended to read as follows:

7 (b) Members of the board must be citizens who are recognized
8 within their communities for their interest in youth. The board
9 shall be comprised of at least one physician, an experienced member
10 of a victim's advocacy organization, a mental health professional,
11 and a current or former prosecutor or judge. A majority of the
12 members of the board must be qualified, by experience or education,
13 in the development and administration of programs for the
14 rehabilitation and reestablishment in society of children in the
15 custody of agencies similar in mission and scope to the commission.

16 SECTION 17. Sections 61.019 and 61.0191, Human Resources
17 Code, are amended to read as follows:

18 Sec. 61.019. DELEGATION OF POWERS AND DUTIES. (a) Any
19 power, duty, or function of the commission that is not assigned by
20 statute to the chief inspector general of the office of inspector
21 general or of the board may be exercised and performed by the
22 executive director.

23 (b) The executive director may delegate to [ex] any member
24 or employee designated or assigned by the board or by the executive
25 director a power, duty, or function of the executive director or the
26 commission that is not already assigned by statute to the chief
27 inspector general of the office of inspector general.

1 Sec. 61.0191. AUDIT; AUTHORITY OF STATE AUDITOR. (a) The
2 financial transactions of the commission are subject to audit by
3 the state auditor in accordance with Chapter 321, Government Code.

4 (b) The state auditor, on request of the office of inspector
5 general, may provide information or other assistance to the office
6 of inspector general that the state auditor determines is
7 appropriate. The office of inspector general may coordinate with
8 the state auditor to review or schedule a plan for an investigation
9 under Section 61.0451 or share other information.

10 (c) The state auditor may access all information maintained
11 by the office of inspector general, such as vouchers, electronic
12 data, and internal records, including information that is otherwise
13 confidential under state law. Information obtained by the state
14 auditor under this subsection is confidential and is not subject to
15 disclosure under Chapter 552, Government Code.

16 (d) Any provision of this chapter relating to the operations
17 of the office of inspector general does not:

18 (1) supersede the authority of the state auditor to
19 conduct an audit under Chapter 321, Government Code; or

20 (2) prohibit the state auditor from:

21 (A) conducting an audit, investigation, or other
22 review; or

23 (B) having full and complete access to all
24 records and other information concerning the commission, including
25 any witness statement or electronic data, that the state auditor
26 considers necessary for the audit, investigation, or review.

27 SECTION 18. Subchapter B, Chapter 61, Human Resources Code,

1 is amended by adding Section 61.023 to read as follows:

2 Sec. 61.023. ACCREDITATION BY AMERICAN CORRECTIONAL
3 ASSOCIATION. Not later than September 1, 2007, the commission
4 shall adopt a plan for and begin the process of receiving
5 accreditation by the American Correctional Association for each
6 correctional facility operated by or under contract with the
7 commission.

8 SECTION 19. Section 61.0315, Human Resources Code, is
9 amended to read as follows:

10 Sec. 61.0315. [~~REVIEW OF~~] TREATMENT PROGRAMS. (a) The
11 commission shall annually review the effectiveness of the
12 commission's programs for the rehabilitation and reestablishment
13 in society of children committed to the commission, including
14 programs for sex offenders, capital offenders, children who are
15 chemically dependent, and emotionally disturbed children.

16 (b) On or before December 31 of each year, the commission
17 shall make a report on the effectiveness of the programs to the
18 Legislative Budget Board.

19 (c) The commission shall offer or make available programs
20 described by Subsection (a) in an adequate manner so that a child in
21 the custody of the commission receives appropriate rehabilitation
22 services recommended for the child by the court committing the
23 child to the commission. If such programs are unavailable, the
24 commission shall report to the legislature by January 10 of each
25 odd-numbered year.

26 SECTION 20. Subchapter C, Chapter 61, Human Resources Code,
27 is amended by adding Sections 61.0331 and 61.0332 to read as

1 follows:

2 Sec. 61.0331. INTERNAL AUDIT; REPORT. (a) The commission
3 shall regularly conduct internal audits of the commission,
4 including audits of:

5 (1) correctional facilities operated by and under
6 contract with the commission; and

7 (2) medical services provided to children in the
8 custody of the commission.

9 (b) The commission shall on a quarterly basis report the
10 results of the audits to:

11 (1) the committees of the senate and house of
12 representatives with primary jurisdiction over matters concerning
13 correctional facilities; and

14 (2) the state auditor.

15 Sec. 61.0332. COMPLIANCE REPORTS. (a) The commission
16 shall provide the joint select committee on the operation and
17 management of the Texas Youth Commission with reports concerning
18 the progress of the commission in complying with the requirements
19 of H.B. No. 2807, Acts of the 80th Legislature, Regular Session,
20 2007. The commission shall prepare and deliver the first report to
21 the joint select committee on December 1, 2007, the second report to
22 the joint select committee on June 1, 2008, and the final report to
23 the joint select committee on December 1, 2008.

24 (b) This section expires January 1, 2009.

25 SECTION 21. Subchapter C, Chapter 61, Human Resources Code,
26 is amended by adding Section 61.0345 to read as follows:

27 Sec. 61.0345. MISSION STATEMENT. The commission shall

1 develop and adopt a statement regarding the role and mission of the
2 commission.

3 SECTION 22. Section 61.035, Human Resources Code, is
4 amended by amending Subsection (b) and adding Subsection (c) to
5 read as follows:

6 (b) Except as otherwise provided by this chapter, an
7 employee of the commission is employed on an at-will basis [~~The~~
8 ~~commission may remove any employee for cause, and a decision by the~~
9 ~~commission is final~~].

10 (c) The commission shall establish procedures and practices
11 governing:

12 (1) employment-related grievances submitted by
13 commission employees; and

14 (2) disciplinary actions within the commission,
15 including a procedure allowing a commission employee to elect to
16 participate in an independent dismissal mediation if the employee
17 is recommended for dismissal.

18 SECTION 23. Subchapter C, Chapter 61, Human Resources Code,
19 is amended by adding Sections 61.0356, 61.0357, 61.0386, and
20 61.0461 to read as follows:

21 Sec. 61.0356. JUVENILE CORRECTIONAL OFFICERS; STAFFING.

22 (a) In this section, "juvenile correctional officer" means an
23 employee whose primary duty includes the custodial supervision of
24 children in the custody of the commission.

25 (b) The commission shall provide each juvenile correctional
26 officer employed by the commission with at least 300 hours of
27 training, which shall include on-the-job training, before the

1 officer independently commences the officer's duties at the
2 facility. The training must provide the officer with information
3 and instruction related to the officer's duties, including
4 information and instruction concerning:

5 (1) the juvenile justice system of this state,
6 including the juvenile correctional facility system;

7 (2) security procedures;

8 (3) the supervision of children committed to the
9 commission;

10 (4) signs of suicide risks and suicide precautions;

11 (5) signs and symptoms of the abuse, assault, neglect,
12 and exploitation of a child, including sexual abuse and sexual
13 assault, and the manner in which to report the abuse, assault,
14 neglect, or exploitation of a child;

15 (6) the neurological, physical, and psychological
16 development of adolescents;

17 (7) commission rules and regulations, including
18 rules, regulations, and tactics concerning the use of force;

19 (8) appropriate restraint techniques;

20 (9) the Prison Rape Elimination Act of 2003 (42 U.S.C.
21 Section 15601, et seq.);

22 (10) the rights and responsibilities of children in
23 the custody of the commission;

24 (11) interpersonal relationship skills;

25 (12) the social and cultural lifestyles of children in
26 the custody of the commission;

27 (13) first aid and cardiopulmonary resuscitation;

- 1 (14) counseling techniques;
2 (15) conflict resolution and dispute mediation,
3 including de-escalation techniques;
4 (16) behavior management;
5 (17) mental health issues; and
6 (18) employee rights, employment discrimination, and
7 sexual harassment.

8 (c) The commission may employ part-time juvenile
9 correctional officers. A part-time juvenile correctional officer
10 is subject to the training requirements of this section.

11 (d) In each correctional facility operated by the
12 commission that has a dormitory, including an open-bay dormitory,
13 the commission must maintain a ratio of not less than one juvenile
14 correctional officer performing direct supervisory duties for
15 every 12 persons committed to the facility.

16 (e) The commission shall consider the age of a juvenile
17 correctional officer or other commission employee who performs
18 direct supervisory duties when determining the placement of the
19 officer or employee in a commission facility so that, to the extent
20 practicable, an officer or employee is not supervising a child who
21 is not more than three years younger than the officer or employee or
22 is otherwise a similar age to the officer or employee.

23 (f) The commission shall rotate the assignment of each
24 juvenile correctional officer at an interval determined by the
25 commission so that a juvenile correctional officer is not assigned
26 to the same station for an extended period of time.

27 (g) The commission shall ensure that at least one juvenile

1 correctional officer is assigned to supervise in or near a
2 classroom or other location in which children receive education or
3 training at the time the children are receiving the education or
4 training.

5 (h) The executive director shall adopt rules necessary to
6 administer this section.

7 Sec. 61.0357. REQUIRED BACKGROUND AND CRIMINAL HISTORY
8 CHECKS. (a) In this section:

9 (1) "Department" means the Department of Public
10 Safety.

11 (2) "National criminal history record information"
12 means criminal history record information obtained from the
13 department under Subchapter F, Chapter 411, Government Code, and
14 from the Federal Bureau of Investigation under Section 411.087,
15 Government Code.

16 (b) The executive director shall review the national
17 criminal history record information, state criminal history record
18 information maintained by the department, and previous and current
19 employment references of each person who:

20 (1) is an employee, contractor, volunteer, ombudsman,
21 or advocate working for the commission or working in a commission
22 facility or a facility under contract with the commission;

23 (2) provides direct delivery of services to children
24 in the custody of the commission; or

25 (3) has access to records in commission facilities or
26 offices.

27 (c) To enable the executive director to conduct the review,

1 the commission shall adopt rules requiring a person described by
2 Subsection (b) to electronically provide the department with a
3 complete set of the person's fingerprints in a form and of a quality
4 acceptable to the department and the Federal Bureau of
5 Investigation.

6 (d) For each person described by Subsection (b), the
7 executive director shall review on an annual basis the person's
8 national criminal history record information.

9 (e) The executive director shall ensure that the system used
10 to check state criminal history record information maintained by
11 the department is capable of providing real time arrest
12 information.

13 (f) The commission by rule may require a person described by
14 Subsection (b) to pay a fee related to the national criminal history
15 record information review conducted under this section. The amount
16 of the fee may not exceed the administrative costs incurred by the
17 commission in conducting the review, including the costs of
18 obtaining the person's fingerprints.

19 (g) The commission shall adopt rules necessary to
20 administer this section.

21 Sec. 61.0386. ADVOCACY AND SUPPORT GROUPS. (a) The
22 commission shall allow advocacy and support groups whose primary
23 functions are to benefit children, inmates, girls and women, the
24 mentally ill, and victims of sexual assault to provide on-site
25 information, support, and other services for children confined in
26 commission facilities.

27 (b) The commission shall adopt security and privacy

1 procedures for advocacy and support groups that provide on-site
2 information, support, and other services under this section. The
3 security and privacy procedures may not be designed to deny an
4 advocacy or support group access to children confined in commission
5 facilities.

6 (c) The commission shall adopt standards consistent with
7 standards adopted by the Texas Department of Criminal Justice
8 regarding the confidential correspondence of children confined in
9 commission facilities with external entities, including advocacy
10 and support groups.

11 Sec. 61.0461. EMPLOYMENT OR DESIGNATION OF CHAPLAIN AT
12 CERTAIN COMMISSION FACILITIES. The commission shall ensure that a
13 chaplain is employed or formally designated for each commission
14 correctional facility that is an institution.

15 SECTION 24. Subchapter C, Chapter 61, Human Resources Code,
16 is amended by adding Sections 61.0451 and 61.0452 to read as
17 follows:

18 Sec. 61.0451. OFFICE OF INSPECTOR GENERAL. (a) The office
19 of inspector general is established at the commission for the
20 purpose of investigating:

21 (1) fraud committed by commission employees,
22 including parole officers employed by or under a contract with the
23 commission; and

24 (2) crimes committed at a facility operated by the
25 commission or at a residential facility operated by another entity
26 under a contract with the commission.

27 (b) The office of inspector general shall prepare and

1 deliver a report concerning the results of any investigation
2 conducted under this section to:

- 3 (1) the executive director;
4 (2) the board;
5 (3) the governor;
6 (4) the lieutenant governor;
7 (5) the speaker of the house of representatives;
8 (6) the standing committees of the senate and house of
9 representatives with primary jurisdiction over matters concerning
10 correctional facilities;
11 (7) the special prosecution unit;
12 (8) the state auditor; and
13 (9) any other appropriate state agency responsible for
14 licensing or certifying commission employees or facilities.

15 (c) The report prepared under Subsection (b) must include a
16 summary of the actions performed by the office of inspector general
17 in conducting the investigation, a statement of whether the
18 investigation resulted in a finding that fraud or a criminal
19 offense occurred, and a description of the finding. The report is
20 public information under Chapter 552, Government Code, only to the
21 extent authorized under that chapter and other law.

22 (d) The office of inspector general may employ and
23 commission inspectors general as peace officers for the purpose of
24 carrying out the duties described by this section. An inspector
25 general shall have all of the powers and duties given to peace
26 officers under Article 2.13, Code of Criminal Procedure.

27 (e) Peace officers employed and commissioned under

1 Subsection (d) must:

2 (1) be certified by the Commission on Law Enforcement
3 Officer Standards and Education under Chapter 1701, Occupations
4 Code; and

5 (2) complete advanced courses relating to the duties
6 of peace officers employed and commissioned under Subsection (d) as
7 part of any continuing education requirements for the peace
8 officers.

9 (f) The executive director shall select a commissioned
10 peace officer as chief inspector general. The chief inspector
11 general is subject to the requirements of this section and may only
12 be discharged for cause.

13 (g) The chief inspector general shall on a quarterly basis
14 prepare and deliver a report concerning the operations of the
15 office of inspector general to:

16 (1) the executive director;

17 (2) the board;

18 (3) the governor;

19 (4) the lieutenant governor;

20 (5) the speaker of the house of representatives;

21 (6) the standing committees of the senate and house of
22 representatives with primary jurisdiction over correctional
23 facilities;

24 (7) the state auditor; and

25 (8) the comptroller.

26 (h) A report prepared under Subsection (g) is public
27 information under Chapter 552, Government Code, to the extent

1 authorized under that chapter and other law, and the commission
2 shall publish the report on the commission's Internet website. A
3 report must be both aggregated and disaggregated by individual
4 facility and include information relating to:

5 (1) the types of investigations conducted by the
6 office of inspector general, such as whether an investigation
7 concerned narcotics or an alleged incident of sexual abuse;

8 (2) the relationship of a victim to a perpetrator, if
9 applicable; and

10 (3) the number of investigations conducted concerning
11 suicides, deaths, and hospitalizations of children in the custody
12 of the commission.

13 (i) The office of inspector general shall immediately
14 report to the executive director, the board, the governor's general
15 counsel, and the state auditor any particularly serious or flagrant
16 problem concerning the administration of a commission program or
17 operation or any interference by the executive director or an
18 employee of the commission with an investigation conducted by the
19 office.

20 Sec. 61.0452. TOLL-FREE NUMBER. (a) The commission shall
21 establish a permanent, toll-free number for the purpose of
22 receiving any information concerning the abuse, neglect, or
23 exploitation of children in the custody of the commission.

24 (b) The office of inspector general shall ensure that:

25 (1) the toll-free number is prominently displayed in
26 each commission facility; and

27 (2) children in the custody of the commission and

1 commission employees have access to telephones for the purpose of
2 calling the toll-free number.

3 SECTION 25. Subchapter D, Chapter 61, Human Resources Code,
4 is amended by adding Sections 61.061 and 61.062 to read as follows:

5 Sec. 61.061. PLACEMENT IN COMMISSION FACILITIES. (a) The
6 commission may not assign a child younger than 15 years of age to
7 the same correctional facility dormitory as a person who is at least
8 17 years of age unless the commission determines that the placement
9 is necessary to ensure the safety of children in the custody of the
10 commission. This subsection does not apply to a dormitory that is
11 used exclusively for short-term assessment and orientation
12 purposes.

13 (b) The executive director by rule shall adopt scheduling,
14 housing, and placement procedures for the purpose of protecting
15 vulnerable children in the custody of the commission. The
16 procedures must address the age, physical condition, and treatment
17 needs of a child as well as any other relevant factor.

18 (c) The commission shall consider the proximity of the
19 residence of a child's family in determining the appropriate
20 commission facility in which to place a child.

21 Sec. 61.062. ESTABLISHMENT OF MINIMUM LENGTH OF STAY. (a)
22 The commission shall establish a minimum length of stay for each
23 child committed to the commission without a determinate sentence.

24 (b) In establishing a minimum length of stay for a child,
25 the commission shall consider:

26 (1) the nature of and seriousness of the conduct
27 engaged in by the child; and

1 (2) the danger the child poses to the community.

2 SECTION 26. Subchapter D, Chapter 61, Human Resources Code,
3 is amended by adding Section 61.0651 to read as follows:

4 Sec. 61.0651. INFORMATION PROVIDED BY COMMITTING COURT. In
5 addition to the information provided under Section 61.065, a court
6 that commits a child to the commission shall provide the commission
7 with a copy of the following documents:

8 (1) the petition and the adjudication and disposition
9 orders for the child, including the child's thumbprint;

10 (2) if the commitment is a result of revocation of
11 probation, a copy of the conditions of probation and the revocation
12 order;

13 (3) the social history report for the child;

14 (4) any psychological or psychiatric reports
15 concerning the child;

16 (5) the contact information sheet for the child's
17 parents or guardian;

18 (6) any law enforcement incident reports concerning
19 the offense for which the child is committed;

20 (7) any sex offender registration information
21 concerning the child;

22 (8) any juvenile probation department progress
23 reports concerning the child;

24 (9) any assessment documents concerning the child;

25 (10) the computerized referral and case history for
26 the child, including case disposition;

27 (11) the child's birth certificate;

1 (12) the child's social security number or social
2 security card, if available;

3 (13) the name, address, and telephone number of the
4 court administrator in the committing county;

5 (14) Title IV-E eligibility screening information for
6 the child, if available;

7 (15) the address in the committing county for
8 forwarding funds collected to which the committing county is
9 entitled;

10 (16) any of the child's school or immunization records
11 that the committing county possesses;

12 (17) any victim information concerning the case for
13 which the child is committed; and

14 (18) all pertinent medical records.

15 SECTION 27. Sections 61.071 and 61.072, Human Resources
16 Code, are amended to read as follows:

17 Sec. 61.071. INITIAL EXAMINATION. (a) The commission
18 shall examine and make a study of each child committed to it as soon
19 as possible after commitment. The study shall be made according to
20 rules established by the commission and shall include:

21 (1) long-term planning for the child; and

22 (2) consideration of the child's medical, substance
23 abuse, and treatment history, including the child's psychiatric
24 history and substance abuse history [a determination of whether the
25 child will need long-term residential care].

26 (b) For a child for whom a minimum length of stay is
27 established under Section 61.062 of one year or longer, the initial

1 examination must include a comprehensive psychiatric evaluation.

2 (c) The commission shall administer comprehensive
3 psychological assessments to a child as part of the child's initial
4 examination, including assessments designed to identify whether a
5 child is in need of a psychiatric evaluation. If the results of a
6 child's psychological assessments indicate that the child is in
7 need of a psychiatric evaluation, the commission shall as soon as
8 practicable conduct a psychiatric evaluation of the child.

9 Sec. 61.072. REEXAMINATION. The commission shall
10 periodically reexamine each child under its control, except those
11 on release under supervision or in foster homes, for the purpose of
12 determining whether a rehabilitation plan made by the commission
13 concerning the child should be modified or continued. The
14 examination must include a study of all current circumstances of a
15 child's personal and family situation and an evaluation of the
16 progress made by the child since the child's last examination. The
17 examination of a child may be made as frequently as the commission
18 considers necessary [~~desirable~~], but shall be made at intervals not
19 exceeding six months [~~one year~~].

20 SECTION 28. Subchapter E, Chapter 61, Human Resources Code,
21 is amended by adding Section 61.0711 to read as follows:

22 Sec. 61.0711. HEALTH CARE DELIVERY SYSTEM. (a) In
23 providing medical care, behavioral health care, or rehabilitation
24 services, the commission shall integrate the provision of those
25 services in an integrated comprehensive delivery system.

26 (b) The delivery system may be used to deliver any medical,
27 behavioral health, or rehabilitation services provided to a child

1 in the custody of the commission, including:

2 (1) health care;

3 (2) dental care;

4 (3) behavioral health care;

5 (4) substance abuse treatment;

6 (5) nutrition;

7 (6) programming;

8 (7) case management; and

9 (8) general rehabilitation services, including
10 educational, spiritual, daily living, recreational, and security
11 services.

12 SECTION 29. Section 61.0731, Human Resources Code, is
13 amended by adding Subsection (c) to read as follows:

14 (c) The commission may disclose to a peace officer or law
15 enforcement agency images of children recorded by an electronic
16 recording device and incident reporting and investigation
17 documents containing the names of children if the information is
18 relevant to the investigation of a criminal offense alleged to have
19 occurred in a facility operated by or under contract with the
20 commission.

21 SECTION 30. Subchapter E, Chapter 61, Human Resources Code,
22 is amended by adding Sections 61.0763 and 61.0764 to read as
23 follows:

24 Sec. 61.0763. RIGHTS OF PARENTS. (a) The commission, with
25 advice from advocacy and support groups such as those described in
26 Section 61.0386(a), shall develop a parent's bill of rights for
27 distribution to the parent or guardian of a child who is under 18

1 years of age and committed to the commission. The parent's bill of
2 rights must include:

3 (1) a description of the commission's grievance
4 policies and procedures, including contact information for the
5 office of inspector general and the office of the independent
6 ombudsman established under Chapter 64;

7 (2) a list of possible incidents that require parental
8 notification;

9 (3) policies concerning visits and telephone
10 conversations with a child committed to the commission;

11 (4) a description of commission caseworker
12 responsibilities; and

13 (5) a statement that the commission caseworker
14 assigned to a child may assist the child's parent or guardian in
15 obtaining information and services from the commission and other
16 resources concerning:

17 (A) counseling, including substance abuse and
18 mental health counseling;

19 (B) assistance programs, including financial and
20 travel assistance programs for visiting a child committed to the
21 commission;

22 (C) workforce preparedness programs;

23 (D) parenting programs; and

24 (E) commission seminars.

25 (b) Not later than 48 hours after the time a child is
26 admitted to a commission facility, the commission shall mail to the
27 child's parent or guardian at the last known address of the parent

1 or guardian:

2 (1) the parent's bill of rights; and

3 (2) the contact information of the commission
4 caseworker assigned to the child.

5 (c) The commission shall on a quarterly basis provide to the
6 parent, guardian, or designated advocate of a child who is in the
7 custody of the commission a report concerning the progress of the
8 child at the commission, including:

9 (1) the academic and behavioral progress of the child;
10 and

11 (2) the results of any reexamination of the child
12 conducted under Section 61.072.

13 (d) The commission shall ensure that written information
14 provided to a parent or guardian regarding the rights of a child in
15 the custody of the commission or the rights of a child's parent or
16 guardian, including the parent's bill of rights, is clear and easy
17 to understand.

18 Sec. 61.0764. COMMISSION CASEWORKERS. (a) The commission
19 shall assign a caseworker to a child committed to the commission. A
20 commission caseworker shall:

21 (1) explore family issues and needs with the parent or
22 guardian of a child committed to the commission;

23 (2) as needed, provide the parent or guardian of a
24 child committed to the commission with information concerning
25 programs and services provided by the commission or another
26 resource; and

27 (3) perform other duties required by the commission.

1 (b) A commission caseworker shall:

2 (1) at least once a month, attempt to contact the
3 child's parent or guardian by phone, in person while the parent or
4 guardian is visiting the facility, or, if necessary, by mail;

5 (2) if unsuccessful in contacting the child's parent
6 or guardian under Subdivision (1), attempt at least one additional
7 time each month to contact the child's parent or guardian; and

8 (3) document successful as well as unsuccessful
9 attempts to contact the child's parent or guardian.

10 (c) To the extent practicable, a caseworker or another
11 facility administrator shall attempt to communicate with a parent
12 or guardian who does not speak English in the language of choice of
13 the parent or guardian.

14 SECTION 31. Section 61.079(a), Human Resources Code, is
15 amended to read as follows:

16 (a) After a child sentenced to commitment under Section
17 54.04(d)(3), 54.04(m), or 54.05(f), Family Code, becomes 16 years
18 of age but before the child becomes 19 [~~21~~] years of age, the
19 commission may refer the child to the juvenile court that entered
20 the order of commitment for approval of the child's transfer to the
21 [~~institutional division of the~~] Texas Department of Criminal
22 Justice for confinement if:

23 (1) the child has not completed the sentence; and

24 (2) the child's conduct, regardless of whether the
25 child was released under supervision under Section 61.081,
26 indicates that the welfare of the community requires the transfer.

27 SECTION 32. Subchapter E, Chapter 61, Human Resources Code,

1 is amended by adding Section 61.0791 to read as follows:

2 Sec. 61.0791. EVALUATION OF CERTAIN CHILDREN SERVING
3 DETERMINATE SENTENCES. (a) When a child who is sentenced to
4 commitment under Section 54.04(d)(3), 54.04(m), or 54.05(f),
5 Family Code, becomes 18 years of age, the commission shall evaluate
6 whether the child is in need of additional services that can be
7 completed in the six-month period after the child's 18th birthday
8 to prepare the child for release from the custody of the commission
9 or transfer to the Texas Department of Criminal Justice.

10 (b) This section does not apply to a child who is released
11 from the custody of the commission or who is transferred to the
12 Texas Department of Criminal Justice before the child's 18th
13 birthday.

14 SECTION 33. Subchapter F, Chapter 61, Human Resources Code,
15 is amended by adding Sections 61.0814, 61.0815, and 61.0816 to read
16 as follows:

17 Sec. 61.0814. REENTRY AND REINTEGRATION PLAN. (a) The
18 commission shall develop a reentry and reintegration plan for each
19 child committed to the custody of the commission. The plan for a
20 child must be designed to ensure that the child receives an
21 extensive continuity of care in services from the time the child is
22 committed to the commission to the time of the child's final
23 discharge from the commission. The plan for a child must include,
24 as applicable:

25 (1) housing assistance;

26 (2) a step-down program, such as placement in a
27 halfway house;

- 1 (3) family counseling;
2 (4) academic and vocational mentoring;
3 (5) trauma counseling for a child who is a victim of
4 abuse while in the custody of the commission; and
5 (6) other specialized treatment services appropriate
6 for the child.

7 (b) If a program or service in the child's reentry and
8 reintegration plan is not available at the time the child is to be
9 released, the commission shall find a suitable alternative program
10 or service so that the child's release is not postponed.

11 Sec. 61.0815. COMPLETION OF MINIMUM LENGTH OF STAY. (a)
12 After a child who is committed to the commission without a
13 determinate sentence completes the minimum length of stay
14 established by the commission for the child under Section 61.062,
15 the commission shall, in the manner provided by this section:

16 (1) discharge the child from the custody of the
17 commission;

18 (2) release the child under supervision under Section
19 61.081; or

20 (3) extend the length of the child's stay in the
21 custody of the commission.

22 (b) The executive director by rule shall establish a panel
23 whose function is to review and determine whether a child who has
24 completed the child's minimum length of stay should be discharged
25 from the custody of the commission as provided by Subsection
26 (a)(1), be released under supervision under Section 61.081 as
27 provided by Subsection (a)(2), or remain in the custody of the

1 commission for an additional period of time as provided by
2 Subsection (a)(3).

3 (c) The executive director shall determine the size of the
4 panel and the length of the members' terms of service on the panel.
5 The panel must consist of an odd number of members and the terms of
6 the panel's members must last for at least two years. A member of
7 the panel is an employee of the commission and may not be involved
8 in any supervisory decisions concerning children in the custody of
9 the commission. The executive director shall adopt policies that
10 ensure the transparency, consistency, and objectivity of the
11 panel's composition, procedures, and decisions. The executive
12 director shall appoint persons to serve as members of the panel. A
13 person appointed to the panel must be a commission employee who
14 works at the commission's central office.

15 (d) The panel may extend the length of the child's stay as
16 provided by Subsection (a)(3) only if the panel determines by
17 majority vote and on the basis of clear and convincing evidence that
18 the child is in need of additional rehabilitation from the
19 commission and that the commission will provide the most suitable
20 environment for that rehabilitation. In extending the length of a
21 child's stay, the panel must specify the additional period of time
22 that the child is to remain in the custody of the commission and
23 must conduct an additional review and determination as provided by
24 this section on the child's completion of the additional term of
25 stay. If the panel determines that the child's length of stay
26 should not be extended, the commission must discharge the child
27 from the custody of the commission as provided by Subsection (a)(1)

1 or release the child under supervision under Section 61.081 as
2 provided by Subsection (a)(2).

3 (e) The commission shall maintain statistics of the number
4 of extensions granted by the panel. The statistics must include
5 aggregated information concerning:

6 (1) the race, sex, specialized treatment needs, and
7 county of origin for each child for whom an extension order is
8 requested;

9 (2) the facility in which the child is confined; and

10 (3) if applicable, any allegations concerning the
11 abuse, mistreatment, or neglect of the child, aggregated by the
12 type of misconduct to which the child was subjected.

13 (f) To the extent authorized under law, the statistics
14 maintained under Subsection (e) are public information under
15 Chapter 552, Government Code, and the commission shall post the
16 statistics on the commission's Internet website. The commission
17 shall prepare and deliver to the standing committees of the senate
18 and house of representatives with primary jurisdiction over matters
19 concerning correctional facilities a report concerning the
20 statistics maintained under Subsection (e).

21 (g) The commission shall provide a report to the parent,
22 guardian, or designated advocate of a child whose length of stay is
23 extended under this section explaining the panel's reason for the
24 extension.

25 Sec. 61.0816. REQUEST FOR RECONSIDERATION OF EXTENSION
26 ORDER. (a) The executive commissioner by rule shall establish a
27 process to request the reconsideration of an extension order issued

1 by the panel established under Section 61.0815.

2 (b) The process to request reconsideration must provide
3 that:

4 (1) a child, a parent, guardian, or designated
5 advocate of a child, an employee of the commission, or a person who
6 provides volunteer services at a commission facility may submit a
7 request for reconsideration of an extension order;

8 (2) the person submitting the request for
9 reconsideration of an extension order must state in the request the
10 reason for the request;

11 (3) after receiving a request for reconsideration of
12 an extension order, the panel shall reconsider an extension order
13 that:

14 (A) extends the child's stay in the custody of
15 the commission by six months or more; or

16 (B) combined with previous extension orders will
17 result in an extension of the child's stay in the custody of the
18 commission by six months or more;

19 (4) the panel's reconsideration of an extension order
20 includes consideration of the information submitted in the request;
21 and

22 (5) the panel shall send a written reply to the child,
23 the parent, guardian, or designated advocate of the child, and the
24 person who made the request for reconsideration of an extension
25 order that includes an explanation of the panel's decision after
26 reconsidering the extension order, including an indication that the
27 panel has considered the information submitted in the request.

1 (c) The commission shall create a form for a request for
2 reconsideration of an extension order that is clear and easy to
3 understand. The commission shall ensure that a child may request
4 assistance in completing a request for reconsideration of an
5 extension order.

6 (d) The commission shall maintain statistics of the number
7 of requests for reconsideration of an extension order that are
8 submitted and the action taken on reconsideration of the extension
9 order. The statistics must include aggregated information
10 concerning:

11 (1) the race, sex, specialized treatment needs, and
12 county of origin for each child for whom a request for
13 reconsideration of an extension order is submitted;

14 (2) whether a request for reconsideration of an
15 extension order results in:

16 (A) a discharge or release under supervision; or

17 (B) the original extension order being upheld;

18 (3) the facility in which the child is confined; and

19 (4) if applicable, any allegations concerning the
20 abuse, mistreatment, or neglect of the child, aggregated by the
21 type of misconduct to which the child was subjected.

22 (e) To the extent authorized under law, the statistics
23 maintained under Subsection (d) are public information under
24 Chapter 552, Government Code, and the commission shall post the
25 statistics on the commission's Internet website. The commission
26 shall prepare and deliver to the standing committees of the senate
27 and house of representatives with primary jurisdiction over matters

1 concerning correctional facilities a report concerning the
2 statistics maintained under Subsection (d).

3 SECTION 34. Sections 61.084(e) and (g), Human Resources
4 Code, are amended to read as follows:

5 (e) Except as provided by Subsection [~~(f)~~ ~~or~~] (g), the
6 commission shall discharge from its custody a person not already
7 discharged on the person's 19th [~~21st~~] birthday.

8 (g) The commission shall transfer a person who has been
9 sentenced under a determinate sentence to commitment under Section
10 54.04(d)(3), 54.04(m), or 54.05(f), Family Code, or who has been
11 returned to the commission under Section 54.11(i)(1), Family Code,
12 to the custody of the [~~pardons and paroles division of the~~] Texas
13 Department of Criminal Justice on the person's 19th [~~21st~~]
14 birthday, if the person has not already been discharged or
15 transferred, to serve the remainder of the person's sentence on
16 parole as provided by Section 508.156, Government Code.

17 SECTION 35. Section 61.0841, Human Resources Code, is
18 amended by amending Subsection (a) and adding Subsection (c) to
19 read as follows:

20 (a) Not later than the 90th day before the date the
21 commission transfers a person to the custody of [~~the pardons and~~
22 ~~paroles division of~~] the Texas Department of Criminal Justice for
23 release on parole under Section 61.081(f) or 61.084(g) [~~61.084(f)~~
24 ~~or (g)~~], the commission shall submit to the department all
25 pertinent information relating to the person, including:

- 26 (1) the juvenile court judgment;
- 27 (2) the circumstances of the person's offense;

1 (3) the person's previous social history and juvenile
2 court records;

3 (4) the person's physical and mental health record;

4 (5) a record of the person's conduct, employment
5 history, and attitude while committed to the commission;

6 (6) a record of the sentence time served by the person
7 at the commission and in a juvenile detention facility in
8 connection with the conduct for which the person was adjudicated;
9 and

10 (7) any written comments or information provided by
11 the commission, local officials, family members of the person, [~~or~~]
12 victims of the offense, or the general public.

13 (c) The Texas Department of Criminal Justice shall grant
14 credit for sentence time served by a person at the commission and in
15 a juvenile detention facility, as recorded by the commission under
16 Subsection (a)(6), in computing the person's eligibility for parole
17 and discharge from the department.

18 SECTION 36. Subchapter G, Chapter 61, Human Resources Code,
19 is amended by adding Sections 61.098 and 61.099 to read as follows:

20 Sec. 61.098. CERTAIN CRIMES CONCERNING THE COMMISSION. (a)
21 In this section, "special prosecution unit" means the special
22 prosecution unit established under Subchapter E, Chapter 41,
23 Government Code.

24 (b) As appropriate, the district attorney, criminal
25 district attorney, or county attorney representing the state in
26 criminal matters before the district or inferior courts of the
27 county who would otherwise represent the state in the prosecution

1 of an offense or delinquent conduct concerning the commission and
2 described by Article 104.003(a), Code of Criminal Procedure, may
3 request that the special prosecution unit prosecute the offense or
4 delinquent conduct.

5 (c) The office of inspector general shall on a quarterly
6 basis prepare and deliver to the board of directors of the special
7 prosecution unit a report concerning:

8 (1) any alleged criminal offense or delinquent conduct
9 concerning the commission and described by Article 104.003(a), Code
10 of Criminal Procedure, that occurred during the preceding calendar
11 quarter; and

12 (2) the disposition of any case involving a criminal
13 offense or delinquent conduct concerning the commission and
14 described by Article 104.003(a), Code of Criminal Procedure, that
15 occurred during the preceding calendar quarter.

16 (d) Notwithstanding Subsection (c), the office of inspector
17 general shall immediately provide the special prosecution unit with
18 a report concerning an alleged criminal offense or delinquent
19 conduct concerning the commission and described by Article
20 104.003(a), Code of Criminal Procedure, if the chief inspector
21 general reasonably believes the offense or conduct is particularly
22 serious and egregious.

23 (e) The chief inspector general of the office of inspector
24 general, at the direction of the board of directors of the special
25 prosecution unit, shall notify the foreman of the appropriate grand
26 jury, in the manner provided by Article 20.09, Code of Criminal
27 Procedure, if:

1 (1) the chief inspector general receives credible
2 evidence of illegal or improper conduct by commission officers,
3 employees, or contractors that the inspector general reasonably
4 believes jeopardizes the health, safety, and welfare of children in
5 the custody of the commission;

6 (2) the chief inspector general reasonably believes
7 the conduct:

8 (A) could constitute an offense under Article
9 104.003(a), Code of Criminal Procedure; and

10 (B) involves the alleged physical or sexual abuse
11 of a child in the custody of a commission facility or an
12 investigation related to the alleged abuse; and

13 (3) the chief inspector general has reason to believe
14 that information concerning the conduct has not previously been
15 presented to the appropriate grand jury.

16 Sec. 61.099. DUTY TO FILE COMPLAINT WITH LAW ENFORCEMENT
17 AGENCY. If the executive director has reasonable cause to believe
18 that a child in the custody of the commission is the victim of a
19 crime committed at a commission facility, the executive director
20 shall immediately file a complaint with the appropriate law
21 enforcement agency.

22 SECTION 37. Subtitle A, Title 3, Human Resources Code, is
23 amended by adding Chapter 64 to read as follows:

24 CHAPTER 64. OFFICE OF INDEPENDENT OMBUDSMAN OF THE TEXAS YOUTH
25 COMMISSION

26 SUBCHAPTER A. GENERAL PROVISIONS

27 Sec. 64.001. DEFINITIONS. In this chapter:

1 (1) "Commission" means the Texas Youth Commission.

2 (2) "Independent ombudsman" means the individual who
3 has been appointed under this chapter to the office of independent
4 ombudsman.

5 (3) "Office" means the office of independent ombudsman
6 created under this chapter.

7 Sec. 64.002. ESTABLISHMENT; PURPOSE. The office of
8 independent ombudsman is a state agency established for the purpose
9 of investigating, evaluating, and securing the rights of the
10 children committed to the commission, including a child released
11 under supervision before final discharge.

12 Sec. 64.003. INDEPENDENCE. (a) The independent ombudsman
13 in the performance of its duties and powers under this chapter acts
14 independently of the commission.

15 (b) Funding for the independent ombudsman is appropriated
16 separately from funding for the commission.

17 [Sections 64.004-64.050 reserved for expansion]

18 SUBCHAPTER B. APPOINTMENT AND MANAGEMENT OF OFFICE

19 Sec. 64.051. APPOINTMENT BY GOVERNOR. (a) The governor
20 shall appoint the independent ombudsman with the advice and consent
21 of the senate for a term of two years, expiring February 1 of
22 odd-numbered years.

23 (b) A person appointed as independent ombudsman is eligible
24 for reappointment but may not serve more than three terms in that
25 capacity.

26 Sec. 64.052. ASSISTANTS. The independent ombudsman may
27 hire assistants to perform, under the direction of the independent

1 ombudsman, the same duties and exercise the same powers as the
2 independent ombudsman.

3 Sec. 64.053. CONFLICT OF INTEREST. (a) A person may not
4 serve as independent ombudsman or as an assistant to the
5 independent ombudsman if the person or the person's spouse:

6 (1) is employed by or participates in the management
7 of a business entity or other organization receiving funds from the
8 commission;

9 (2) owns or controls, directly or indirectly, any
10 interest in a business entity or other organization receiving funds
11 from the commission; or

12 (3) uses or receives any amount of tangible goods,
13 services, or funds from the commission.

14 (b) A person may not serve as independent ombudsman or as an
15 assistant to the independent ombudsman if the person or the
16 person's spouse is required to register as a lobbyist under Chapter
17 305, Government Code, because of the person's activities for
18 compensation on behalf of a profession related to the operation of
19 the commission.

20 (c) A person may not serve as independent ombudsman or as an
21 assistant to the independent ombudsman if the person or the
22 person's spouse is an officer, employee, manager, or paid
23 consultant of a Texas trade association in the field of criminal or
24 juvenile justice.

25 (d) For the purposes of this section, a Texas trade
26 association is a nonprofit, cooperative, and voluntarily joined
27 association of business or professional competitors in this state

1 designed to assist its members and its industry or profession in
2 dealing with mutual business or professional problems and in
3 promoting their common interest.

4 Sec. 64.054. SUNSET PROVISION. The office is subject to
5 review under Chapter 325, Government Code (Texas Sunset Act), but
6 is not abolished under that chapter. The office shall be reviewed
7 during the periods in which state agencies abolished in 2009 and
8 every 12th year after 2009 are reviewed.

9 Sec. 64.055. REPORT. (a) The independent ombudsman shall
10 submit on a quarterly basis to the governor, the lieutenant
11 governor, and each member of the legislature a report that is both
12 aggregated and disaggregated by individual facility and describes:

- 13 (1) the work of the independent ombudsman;
14 (2) the results of any review or investigation
15 undertaken by the independent ombudsman, including reviews or
16 investigation of services contracted by the commission; and
17 (3) any recommendations that the independent
18 ombudsman has in relation to the duties of the independent
19 ombudsman.

20 (b) The independent ombudsman shall immediately report to
21 the governor, the lieutenant governor, the speaker of the house of
22 representatives, the state auditor, and the office of the inspector
23 general of the commission established under Section 61.0451 any
24 particularly serious or flagrant:

- 25 (1) case of abuse or injury of a child committed to the
26 commission;
27 (2) problem concerning the administration of a

1 commission program or operation;

2 (3) problem concerning the delivery of services in a
3 facility operated by or under contract with the commission; or

4 (4) interference by the commission with an
5 investigation conducted by the office.

6 Sec. 64.056. COMMUNICATION AND CONFIDENTIALITY. (a) The
7 commission shall allow any child committed to the commission to
8 communicate with the independent ombudsman or an assistant to the
9 ombudsman. The communication:

10 (1) may be in person, by mail, or by any other means;
11 and

12 (2) is confidential and privileged.

13 (b) The records of the independent ombudsman are
14 confidential, except that the independent ombudsman shall:

15 (1) share with the office of inspector general a
16 communication with a child that may involve the abuse or neglect of
17 the child; and

18 (2) disclose its nonprivileged records if required by
19 a court order on a showing of good cause.

20 (c) The independent ombudsman may make reports relating to
21 an investigation public after the investigation is complete but
22 only if the names of all children, parents, and employees are
23 redacted from the report and remain confidential.

24 (d) The name, address, or other personally identifiable
25 information of a person who files a complaint with the office of
26 independent ombudsman, information generated by the office of
27 independent ombudsman in the course of an investigation, and

1 confidential records obtained by the office of independent
2 ombudsman are confidential and not subject to disclosure under
3 Chapter 552, Government Code, except that the information and
4 records, other than confidential information and records
5 concerning a pending law enforcement investigation or criminal
6 action, may be disclosed to the appropriate person if the office
7 determines that disclosure is:

8 (1) in the general public interest;

9 (2) necessary to enable the office to perform the
10 responsibilities provided under this section; or

11 (3) necessary to identify, prevent, or treat the abuse
12 or neglect of a child.

13 Sec. 64.057. PROMOTION OF AWARENESS OF OFFICE. The
14 independent ombudsman shall promote awareness among the public and
15 the children committed to the commission of:

16 (1) how the office may be contacted;

17 (2) the purpose of the office; and

18 (3) the services the office provides.

19 Sec. 64.058. RULEMAKING AUTHORITY. (a) The independent
20 ombudsman by rule shall establish policies and procedures for the
21 operations of the office of independent ombudsman.

22 (b) Chapter 2001, Government Code, applies to rulemaking
23 under this section, and for that purpose, the independent ombudsman
24 is a state agency under that chapter.

25 Sec. 64.059. AUTHORITY OF STATE AUDITOR. The financial
26 transactions of the office are subject to audit by the state auditor
27 in accordance with Chapter 321, Government Code.

1 [Sections 64.060-64.100 reserved for expansion]

2 SUBCHAPTER C. DUTIES AND POWERS

3 Sec. 64.101. DUTIES AND POWERS. (a) The independent
4 ombudsman shall:

5 (1) review the procedures established by the
6 commission and evaluate the delivery of services to children to
7 ensure that the rights of children are fully observed;

8 (2) review complaints filed with the independent
9 ombudsman concerning the actions of the commission and investigate
10 each complaint in which it appears that a child may be in need of
11 assistance from the independent ombudsman;

12 (3) conduct investigations of complaints, other than
13 complaints alleging criminal behavior, if the office determines
14 that:

15 (A) a child committed to the commission or the
16 child's family may be in need of assistance from the office; or

17 (B) a systemic issue in the commission's
18 provision of services is raised by a complaint;

19 (4) review or inspect periodically the facilities and
20 procedures of any institution or residence in which a child has been
21 placed by the commission, whether public or private, to ensure that
22 the rights of children are fully observed;

23 (5) provide assistance to a child or family who the
24 independent ombudsman determines is in need of assistance,
25 including advocating with an agency, provider, or other person in
26 the best interests of the child;

27 (6) review court orders as necessary to fulfill its

1 duties;

2 (7) recommend changes in any procedure relating to the
3 treatment of children committed to the commission;

4 (8) make appropriate referrals under any of the duties
5 and powers listed in this subsection; and

6 (9) supervise assistants who are serving as advocates
7 in their representation of children committed to the commission in
8 internal administrative and disciplinary hearings.

9 (b) The independent ombudsman may apprise persons who are
10 interested in a child's welfare of the rights of the child.

11 (c) The independent ombudsman may, in any matter that does
12 not involve alleged criminal behavior, to assess if a child's
13 rights have been violated, contact or consult with an
14 administrator, employee, child, parent, expert, or any other
15 individual in its investigation or to secure information.

16 (d) Notwithstanding any other provision of this chapter,
17 the independent ombudsman may not investigate alleged criminal
18 behavior.

19 Sec. 64.102. TREATMENT OF COMMISSION EMPLOYEES WHO
20 COOPERATE WITH INDEPENDENT OMBUDSMAN. The commission may not
21 discharge or in any manner discriminate or retaliate against an
22 employee who in good faith makes a complaint to the office of
23 independent ombudsman or cooperates with the office in an
24 investigation.

25 Sec. 64.103. TRAINING. The independent ombudsman shall
26 attend annual sessions, including the training curriculum for
27 juvenile correctional officers required under Section 61.0356 and

1 may participate in other appropriate professional training.

2 [Sections 64.104-64.150 reserved for expansion]

3 SUBCHAPTER D. ACCESS TO INFORMATION

4 Sec. 64.151. ACCESS TO INFORMATION OF GOVERNMENTAL
5 ENTITIES. (a) The commission shall allow the independent
6 ombudsman access to its records relating to the children committed
7 to the commission.

8 (b) The Department of Public Safety shall allow the
9 independent ombudsman access to the juvenile justice information
10 system established under Subchapter B, Chapter 58, Family Code.

11 (c) A local law enforcement agency shall allow the
12 independent ombudsman access to its records relating to any child
13 in the care or custody of the commission.

14 Sec. 64.152. ACCESS TO INFORMATION OF PRIVATE ENTITIES.
15 The independent ombudsman shall have access to the records of a
16 private entity that relate to a child committed to the commission.

17 SECTION 38. Section 141.047(b), Human Resources Code, is
18 amended to read as follows:

19 (b) The director, the executive commissioner [~~director~~] of
20 the Texas Youth Commission, and the commissioners of education,
21 mental health and mental retardation, and human services shall meet
22 in Austin at least quarterly to:

23 (1) discuss mutual problems;
24 (2) resolve conflicts in providing services to
25 juveniles; and

26 (3) make recommendations to the governor and
27 legislature.

1 SECTION 39. Section 141.0471(c), Human Resources Code, is
2 amended to read as follows:

3 (c) The governing board of the Texas Juvenile Probation
4 Commission and the executive director of the Texas Youth Commission
5 ~~[each agency]~~ shall adopt the coordinated strategic plan on or
6 before December 1st of each odd-numbered year, or before the
7 adoption of the agency's individual strategic plan, whichever is
8 earlier.

9 SECTION 40. Section 110.302(c), Occupations Code, is
10 amended to read as follows:

11 (c) The Texas Board of Criminal Justice ~~[or the governing~~
12 ~~board of the Texas Youth Commission]~~ may vote to exempt employees of
13 the Texas Department of Criminal Justice ~~[or the Texas Youth~~
14 ~~Commission, as appropriate,]~~ from a specific licensing requirement
15 imposed under this section if the board determines that the
16 requirement causes financial or operational hardship on the agency.
17 The Texas Youth Commission may not exempt any employee of the
18 commission from a licensing requirement imposed by this section for
19 any reason.

20 SECTION 41. Sections 39.04(a) and (b), Penal Code, are
21 amended to read as follows:

22 (a) An official of a correctional facility, an employee of a
23 correctional facility, a person other than an employee who works
24 for compensation at a correctional facility, a volunteer at a
25 correctional facility, or a peace officer commits an offense if the
26 person intentionally:

27 (1) denies or impedes a person in custody in the

1 exercise or enjoyment of any right, privilege, or immunity knowing
2 his conduct is unlawful; or

3 (2) engages in sexual contact, sexual intercourse, or
4 deviate sexual intercourse with an individual in custody or, in the
5 case of an individual in the custody of the Texas Youth Commission,
6 employs, authorizes, or induces the individual to engage in sexual
7 conduct or a sexual performance.

8 (b) An offense under Subsection (a)(1) is a Class A
9 misdemeanor. An offense under Subsection (a)(2) is a state jail
10 felony, except that an offense under Subsection (a)(2) is a felony
11 of the second degree if the individual is in the custody of the
12 Texas Youth Commission.

13 SECTION 42. Section 39.04(e), Penal Code, is amended by
14 adding Subdivisions (4) and (5) to read as follows:

15 (4) "Sexual conduct" and "performance" have the
16 meanings assigned by Section 43.25.

17 (5) "Sexual performance" means any performance or part
18 thereof that includes sexual conduct by an individual.

19 SECTION 43. The following laws are repealed:

20 (1) Sections 54.04(s) and (t), Family Code;

21 (2) Section 54.05(k), Family Code; and

22 (3) Sections 61.001(3), 61.0122, 61.014, 61.015,
23 61.0151, 61.017, and 61.084(f), Human Resources Code.

24 SECTION 44. A person committed to the Texas Youth
25 Commission on the basis of conduct constituting the commission of
26 an offense of the grade of misdemeanor under Section 54.04(d)(2),
27 Family Code, as it existed before the effective date of this Act,

1 must be discharged from the custody of the Texas Youth Commission
2 not later than the person's 19th birthday.

3 SECTION 45. The change in law made by Section 54.052, Family
4 Code, as added by this Act, and Section 61.0841(c), Human Resources
5 Code, as added by this Act, applies only to conduct for which a
6 child is adjudicated on or after the effective date of this Act. A
7 child who is adjudicated before the effective date of this Act is
8 governed by the law in effect when the child was adjudicated, and
9 the former law is continued in effect for that purpose.

10 SECTION 46. The change in law made by this Act to Section
11 39.04, Penal Code, applies only to an offense committed on or after
12 September 1, 2007. An offense committed before September 1, 2007,
13 is governed by the law in effect when the offense was committed, and
14 the former law is continued in effect for that purpose. For
15 purposes of this section, an offense was committed before September
16 1, 2007, if any element of the offense occurred before that date.

17 SECTION 47. The Texas Youth Commission shall develop and
18 adopt a mission statement, as required by Section 61.0345, Human
19 Resources Code, as added by this Act, on or before October 1, 2007.

20 SECTION 48. (a) Section 61.0356(b), Human Resources Code,
21 as added by this Act, applies only to a juvenile correctional
22 officer hired by the Texas Youth Commission on or after the
23 effective date of this Act. As soon as practicable but not later
24 than six months after the effective date of this Act, the Texas
25 Youth Commission shall complete providing the training to juvenile
26 correctional officers hired before the effective date of this Act
27 that is necessary to conform to the requirements of Section

1 61.0356(b), Human Resources Code, as added by this Act.

2 (b) As soon as practicable after the effective date of this
3 Act, the Texas Youth Commission shall ensure that:

4 (1) each correctional facility operated by the
5 commission that has a dormitory, including an open-bay dormitory,
6 has a ratio of not less than one juvenile correctional officer
7 performing direct supervisory duties for every 12 children
8 committed to the facility, as required by Section 61.0356(d), Human
9 Resources Code, as added by this Act; and

10 (2) male children younger than 15 years of age are
11 assigned to separate correctional facility dorms from persons who
12 are at least 17 years of age as required by Section 61.061, Human
13 Resources Code, as added by this Act.

14 SECTION 49. As soon as practicable after the effective date
15 of this Act, the governor shall appoint:

16 (1) the executive director of the Texas Youth
17 Commission, as required by Section 61.012, Human Resources Code, as
18 amended by this Act, with a term of office expiring February 1,
19 2009; and

20 (2) the independent ombudsman of the Texas Youth
21 Commission, as required by Section 64.051, Human Resources Code, as
22 added by this Act, with a term of office expiring February 1, 2009.

23 SECTION 50. As soon as practicable after the effective date
24 of this Act:

25 (1) the governor shall appoint three members of the
26 advisory board of the Texas Youth Commission, as required by
27 Section 61.013, Human Resources Code, as amended by this Act;

1 (2) the speaker of the house of representatives shall
2 appoint three members of the advisory board of the Texas Youth
3 Commission, as required by Section 61.013, Human Resources Code, as
4 amended by this Act; and

5 (3) the lieutenant governor shall appoint three
6 members of the advisory board of the Texas Youth Commission, as
7 required by Section 61.013, Human Resources Code, as amended by
8 this Act.

9 SECTION 51. Before October 1, 2007, the Texas Youth
10 Commission shall certify to the Employees Retirement System of
11 Texas, in the manner prescribed by the retirement system, the name
12 of each person employed by the office of inspector general at the
13 Texas Youth Commission as a law enforcement officer, as defined by
14 Section 811.001, Government Code, as amended by this Act, and any
15 other information the system determines is necessary for the
16 crediting of service and financing of benefits under Subtitle B,
17 Title 8, Government Code.

18 SECTION 52. As soon as practicable after the effective date
19 of this Act, the Texas Youth Commission shall, in the manner
20 prescribed by Section 61.0357, Human Resources Code, as added by
21 this Act, begin obtaining national criminal history record
22 information for each person who is described by Section 61.0357(b),
23 Human Resources Code, as added by this Act.

24 SECTION 53. (a) Not later than September 30, 2007, the
25 board of directors of the special prosecution unit established by
26 Subchapter E, Chapter 41, Government Code, as added by this Act,
27 shall elect the initial members of the executive board of the board

1 of directors as required by Section 41.304, Government Code, as
2 added by this Act. In electing those members, the board of
3 directors shall specify:

4 (1) which members serve terms expiring in
5 even-numbered years and which serve terms expiring in odd-numbered
6 years; and

7 (2) the beginning and end dates of the terms served by
8 the members of the executive board.

9 (b) Not later than September 30, 2007, the board of
10 directors of the special prosecution unit established by Subchapter
11 E, Chapter 41, Government Code, as added by this Act, shall elect
12 the presiding officer and the assistant presiding officer of the
13 board of directors and the executive board of the board of directors
14 as required by Section 41.305, Government Code, as added by this
15 Act. In electing those officers, the board of directors shall
16 specify the beginning and end dates of the terms served by the
17 officers.

18 (c) As soon as possible after the effective date of this
19 Act, the executive board of the board of directors of the special
20 prosecution unit established by Subchapter E, Chapter 41,
21 Government Code, as added by this Act, shall elect the counsellor as
22 required by Section 41.309, Government Code, as added by this Act.

23 SECTION 54. A rule adopted by the Texas Youth Commission
24 before the effective date of this Act is a rule of the executive
25 director of the Texas Youth Commission until superseded, modified,
26 or repealed by the executive director.

27 SECTION 55. This Act takes effect immediately if it

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1 receives a vote of two-thirds of all the members elected to each
2 house, as provided by Section 39, Article III, Texas Constitution.
3 If this Act does not receive the vote necessary for immediate
4 effect, this Act takes effect September 1, 2007.